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Attorneys for Plaintiff JOHN ALLEN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN ALLEN

Plaintiff,

v.

HOMEQ SERVICING INC.,
DOES 1 TO 50,

Defendant.

ACTION NO: C-08-03798 MMC

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION TO
REMAND**

Date: October 10, 2008

Time: 9:00 a.m.

**Location: Courtroom 7, 19th Floor
450 Golden Gate Ave.
San Francisco, CA 94102**

The Motion to Remand the above-entitled action to the Alameda County Superior Court in Oakland, California, came regularly for hearing on October 10, 2008. Shawn Ridgell appeared as counsel for the plaintiff, and Jeffrey S. Allison appeared as counsel for the defendant. The court, having considered the moving and supporting papers, and good cause appearing therefor,

IT IS ORDERED that:

1. Plaintiff's motion to remand this matter to the Alameda County Superior Court is GRANTED. Defendant has failed to provide facts to demonstrate that the amount in controversy in this matter exceeds \$75,000. A defendant seeking removal based upon diversity jurisdiction must prove the jurisdictional dollar amount by a "Preponderance of

1 the evidence” Sanchez v. Monumental Life Ins. Co. (9th Cir 1996) 95 F3d 856, 860.
2 Defendant has failed to meet this requirement. When claiming that the amount in
3 controversy exceeds \$75,000, defendant cannot rely on plaintiff’s settlement demands
4 or statements made during settlement negotiations as evidence of the jurisdictional
5 amount. Gwyn v. Wal-Mart Stores Inc. (M.D. N.C. 1996) 955 F. Supp. 44, 46.

6 Dated:

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Hon. Maxine Chesney
U.S. District Court Judge
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